

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

KING SOOPERS, INC.

and

Case 27-CA-129598

WENDY GEASLIN

NOTICE AND INVITATION TO FILE BRIEFS

The following issue has been raised in this case:¹ At compliance, the Board has long treated a discriminatee's reasonable search-for-work and interim employment expenses as an offset that reduces the amount of interim earnings subtracted from gross backpay. See, e.g., *English Mica Co.*, 101 NLRB 1061, 1062 (1952); *F. W. Woolworth Co.*, 90 NLRB 289, 293 fn. 8 (1950); *Crossett Lumber Co.*, 8 NLRB 440, 497-498 (1938). The General Counsel asks the Board to change this practice and award such expenses regardless of whether the discriminatee received interim earnings. He contends that (a) where interim earnings are nonexistent or less than these expenses, the failure to award these expenses means the discriminatee will receive less than make-whole relief, (b) the Board's traditional treatment of these expenses is inequitable and contrary to general Board remedial principles, and (c) these expenses are awarded to employees under statutes other than the National Labor Relations Act. The General Counsel also requests that these expenses be calculated separately from taxable net backpay, with interest.

The parties and interested *amici* are invited to address the following questions:

1. Should the Board adopt the change requested by the General Counsel?
2. What considerations warrant retaining the Board's traditional treatment of search-for-

¹ For the purposes of this notice and invitation to file briefs, we assume, without deciding at this time, that a backpay remedy is warranted in this case.

work and interim employment expenses?

3. What considerations warrant making the requested change?

Supplemental briefs by the parties not exceeding 25 pages in length and briefs by *amici* not exceeding 15 pages shall be filed with the Board in Washington, D.C., on or before March 18, 2016. The parties may file responsive briefs on or before April 1, 2016, which shall not exceed 15 pages in length. No other responsive briefs will be accepted. The parties and *amici* shall file briefs electronically by going to www.nlr.gov and clicking on “E-File Documents.” Parties and *amici* are reminded to serve all case participants. A list of case participants may be found at <https://www.nlr.gov/case/27-CA-129598> under the heading “Service Documents.” If assistance is needed in E-Filing on the Agency’s website, please contact the Office of Executive Secretary at 202-273-1940 or the undersigned at 202-273-3737.

Dated, Washington, D.C., February 19, 2016.

By direction of the Board:

Gary Shinnors
Executive Secretary